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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,268	02/09/2004	Akinwale Akinpelu	3555-0124P	8580

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Mr. S. H. Dworetsky
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EXAMINER

SCUDERI, PHILIP S

ART UNIT	PAPER NUMBER
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2153

MAIL DATE	DELIVERY MODE
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03/27/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/773,268	Applicant(s) AKINPELU ET AL.	
	Examiner Philip S. Scuderi	Art Unit 2153	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

I. §112, Second Paragraph

Applicant's arguments filed 12/20/2007 in regards to the rejections under section 112, second paragraph have been fully considered and they are persuasive.

The remaining claims have been amended to address the rejections under section 112, second paragraph in the last office action. Accordingly, these rejections have been withdrawn.

II. Prior Art

Applicant's arguments filed 12/20/2007 (herein "Remarks") in regards to the prior art have been fully considered and they are persuasive enough to overcome the rejection under section 102.

1. Applicant argues that Britz does not teach aggregating customer traffic. (Remarks, pp. 4).

The examiner finds this argument unpersuasive.

Britz clearly states that "[h]eading up-stream toward the network, the nodes will aggregate multiple customer specific wavelength packet data, inserting and accruing this data into the network aggregation layer packet stream." (Britz, col. 4, ll. 8-11).

2. Applicant argues that Britz does not teach providing the multiple network services to a customer. (Remarks, pp. 4).

The examiner finds this argument persuasive enough to overcome the rejection under section 102. But, the examiner finds this argument unpersuasive in regards to section 103.

Britz teaches a routing system that the skilled artisan would of course recognize as providing data network services. Applicant has amended claim 11 to require the “business premise equipment” to provide “the multiple network services,” which means that the business premise equipment is now required to provide “voice, data, and video services” as recited in the preamble.

Britz does not expressly or inherently disclose that the system provides voice and video services. Accordingly, Britz does not anticipate claim 11 and the rejection under section 102 has therefore been withdrawn.

However, the examiner takes official notice that providing voice and video services over metropolitan area networks was notoriously well known in the art. It would have been obvious to one of ordinary skill in the art to utilize Britz’s system to provide these services because doing so would allow the customers to access various types of services according to their preferences.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11-16 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Britz (U.S. Patent No. 6,973,269).

As to claim 11, Britz teaches a network system, comprising:

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a primary network ring (primary fiber metropolitan ring 505) including at least one primary node (a first distribution/aggregation node 510/530) and a plurality of one secondary nodes (a second distribution/aggregation node 510/530) [see fig. 5a, col. 13, ll. 3-31]; and

a secondary network ring (fiber mini-ring 540) connecting the at least one secondary node (second distribution/aggregation node 510/530) to business premises equipment (a tertiary aggregation and distribution node 535, e.g., a small-business switch), wherein the business premises equipment (tertiary aggregation and distribution node 535) are associated with respective customer premises equipment and includes a multi-service processor for aggregating customer traffic and providing network services to a customer [see fig. 5b, col. 4, ll. 8-11 (“Heading up-stream toward the network, the nodes will aggregate multiple customer specific wavelength packet data, inserting and accruing this data into the network aggregation layer packet stream”), col. 4, ll. 25-30, col. 5, ll. 22-26, col. 6, ll. 49-55, col. 13, ll. 32-43].

Britz teaches a routing system that the skilled artisan would of course recognize as providing data network services. Applicant has amended claim 11 to require the “business premise equipment” to provide “the multiple network services,” which means that the business premise equipment is now required to provide “voice, data, and video services” as recited in the preamble.

Britz does not expressly or inherently disclose that the system provides voice and video services.

The examiner takes official notice that providing voice and video services over metropolitan area networks was notoriously well known in the art. It would have been obvious to one of ordinary skill in the art to utilize Britz’s system to provide these services because doing so would allow the customers to access various types of services according to their preferences.

As to claim 12, Britz teaches that the network system forms a wide area network connecting major metropolitan areas [see fig. 5a, col. 13, ll. 8-11].

As to claim 13, Britz teaches that the primary network ring (505) includes at least two primary nodes (510/530) and secondary nodes (510/530) between the primary nodes (510/530) on the primary network ring (505) [see fig. 5a].

As to claim 14, Britz teaches that the customer premises equipment (at nodes 535) are located between secondary nodes (510/530, 525) on the secondary network ring (540) [see fig. 5b].

As to claim 15, Britz teaches that the business premises equipment (535) are connected to the customer premises equipment through a tertiary network ring [see col. 4, ll. 22-41].

As to claim 16, Britz teaches that the links which connect the at least one primary node (510), the at least one secondary node (510), the business premises equipment (535) and the customer premises equipment are optical links [see fig. 5a, 5b, col. 4, ll. 22-41, col. 13, ll. 3-43].

As to claim 18, Britz teaches that the business premises equipment (535) have one of bi-directional line switched ring and uni-directional path switched ring functionality [see fig. 5b, col. 13, ll. 32-43].

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Britz (U.S. Patent No. 6,973,269) in view of Sevevirathne (U.S. Patent No. 6,798,740).

Britz discloses that the links are optical links [see, e.g., Britz at col. 13, ll. 60-65]. But, Britz does not disclose that the links use known STM standards. It would have been obvious to one of ordinary skill in the art to use any of the known STM standards here because using STM results in improved network efficiency [see Sevevirathne at col. 4, ll. 19-26].

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Britz (U.S. Patent No. 6,973,269) in view of Ryu (U.S. Patent No. 5,481,718).

Britz discloses that the equipment communicates over optical networks [see, e.g., Britz at col. 13, ll. 60-65]. But, Britz does not disclose that the protocol is asynchronous transfer protocol (ATM). It would have been obvious to one of ordinary skill in the art to use ATM here because ATM provided well known advantages such as reducing protocol processing load [see Ryu at col. 31, ll. 4-14].

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Britz (U.S. Patent No. 6,973,269) in view of Sheets (U.S. Patent No. 5,689,546).

Britz does not disclose a system that monitors the functioning of the customer premises equipment. Nonetheless, various such systems were well known in the art. For example, Sheets teaches a system that monitors the functioning of the customer premises equipment [see Sheets at abstract]. It would have been obvious to one of ordinary skill in the art to use such a system here because such monitoring systems enabled central offices investigate performance characteristics of transmission lines [see Sheets at col. 2, ll. 38- 54].

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the

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mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip S. Scuderi whose telephone number is (571)272-5865. The examiner can normally be reached on Monday-Friday 9:00 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton B. Burgess can be reached on (571) 272-3949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/P.S./


/Glenton B. Burgess/

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Supervisory Patent Examiner, Art Unit 2153

<div>Application Number</div> <div></div>	Application/Control No.	Applicant(s)/Patent under Reexamination	
	10/773,268	AKINPELU ET AL.	
	Examiner	Art Unit	
	Philip S. Scuderi	2153	